



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/792,242

03/03/2004

Christo Brand

EPTD / 52

4768

26875 7590 04/20/2009
WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

EXAMINER

DOVE, TRACY MAE

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

04/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/792,242	Applicant(s) BRAND, CHRISTO	
	Examiner TRACY DOVE	Art Unit 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Action is in response to the communication filed on 1/12/09. Applicant's arguments have been considered, but are not persuasive. Claims 1-3 and 5-7 are pending. This Action is FINAL.

Claims Analysis

Claim 1 recites "attached with a crimped mechanical connection", which is not given patentable weight because the phrase is a product-by-process limitation. Product-by-process limitations, in the absence of unexpected results, are not given patentable weight. See MPEP 2113.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda et al., US 5,354,629 in view of the background section of the present specification and further in view of Rosansky et al., US 4,482,615.

Kuroda teaches a battery having a spiral electrode unit comprising a separator laminated between a cathode and an anode rolled into a spiral shape (abstract). Figure 1 shows a lithium anode 1 with a rectangular anode terminal tab 2 connected to the anode 1 by tape 3 on both sides (shown in Figure 11). The anode terminal tab is located 180 mm down the 230 mm length of the anode (3:33-40). As shown in Figure 1,

Art Unit: 1795

anode tab 2 and tape 3 are located above the bottom edge of the anode 1. Figure 2 shows a cathode 4 having a tab 5 and a tape 6.

Kuroda does not explicitly teach a prismatic cell having two long sides and two narrow sides or that a metal wire is extended along the long axis of the anode.

However, the present specification discloses that spiral electrode units are known for use in a prismatic battery. Furthermore, the background section of the present specification (page 3) teaches prismatic cells can be formed by winding or folding an elongated anode and an elongated cathode with a separator there between. Typical chemistry for the prismatic battery is lithium/manganese dioxide. Kuroda teaches a spiral electrode unit and a lithium/MnO₂ battery chemistry (8:1-2). Therefore, one of skill would have been motivated to use the spiral wound lithium/MnO₂ battery unit in a prismatic battery because it is known in the art that spiral wound lithium/MnO₂ units may be accommodated in prismatic shaped batteries.

The background also teaches a metal wire which runs the length of the anode is known (page 3). Furthermore, Rosansky teaches a lithium anode comprising a wire 12 which runs the length of the anode and a tab 14 (Figure 6). The tab can be any conductive metal (2:43-45). A cell not utilizing a lithium anode employing the wire has erratic stability under forced discharge conditions which can result in bulging, venting and even possible cell rupture (3:14-19). Therefore, one of skill would have been motivated to provide the metal wire of Rosansky in the strip anode of Kuroda to prevent bulging, venting and cell rupture during discharge. Furthermore, the present specification (background) teaches such metal wires are known.

Note the limitation "crimped mechanical connection" is not given patentable weight because it is a product-by-process limitation. Furthermore, the present specification teaches that crimping the anode tab to attach the tab to the anode collector was known prior to the present invention. The "crimping" was not invented by Applicant. See page 2, first paragraph, of the present specification.

Response to Arguments

Applicant's arguments filed 1/12/09 have been fully considered but they are not persuasive. Applicant argues the anode tabs of Kuroda are attached to the respective anodes with tape and not with a crimped mechanical connection. However, the process by which the product was manufactured is not given patentable weight because the claims are directed toward a product. Furthermore, page 2 of the present specification teaches that attaching an anode tab to the anode by crimping or the like was known.

Applicant argues the Kuroda reference fails to disclose any embodiment in which the anode tab is attached to a first side of the anode "without any of said insulation tape overlying said anode tab on said first side". However, Kuroda does teach the claimed invention. Figure 11 shows an anode tab 112 and two pieces of insulating tape 113. The insulating tape 113 on the opposite side of the anode from the anode tab 112 is considered the insulation tape of the claimed invention. Specifically, the claimed invention does not exclude a second insulation tape that overlies the anode tab 112.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tracy Dove whose telephone number is 571-272-1285. The examiner can normally be reached on Monday & Thursday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tracy Dove/
Primary Examiner, Art Unit 1795

April 16, 2009